

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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:  
Luis Toro, *on behalf of himself and all others  
similarly situated,* :  
:  
Plaintiff, : 23-CV-3669 (VSB)  
:  
-against- : **ORDER**  
:  
Emerson's Shoes, Inc., :  
:  
Defendant. :  
:  
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VERNON S. BRODERICK, United States District Judge:

On May 2, 2023, Plaintiff Luis Toro (“Plaintiff”) filed this action against Defendant Emerson’s Shoes, Inc. (“Defendant”). (Doc. 1.) Plaintiff obtained a summons on May 3, 2023. (Doc. 4.) However, Plaintiff failed to file an affidavit of service or take any other action to prosecute this case. On September 28, 2023, I ordered Plaintiff to submit a letter of no more than three (3) pages, supported by legal authority, demonstrating good cause as to why this case should not be dismissed pursuant to Federal Rule of Civil Procedure 4(m). (Doc. 9.) I warned, “[F]ailure to submit a letter and to demonstrate good cause for failure to serve Defendant within ninety days after the complaint was filed will result in dismissal of this action.” (*Id.*)

Accordingly, Plaintiff’s claims are dismissed without prejudice pursuant to Rule 4(m). The Clerk of Court is respectfully directed to terminate this action.

SO ORDERED.

Dated: October 18, 2023  
New York, New York

  
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VERNON S. BRODERICK  
United States District Judge